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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6
7 UNITED STATES OF AMERICA, }
8 Plaintiff, } No. CR-S-98-347-JLQ
9 vs. } ORDER ON MOTION FOR
10 RICARDO MURILLO, } DISCOVERY IN 28 U.S.C. § 2255
11 } PROCEEDING
12 Defendant. }
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14 Before the court is the Government's Motion For Discovery In A 28 U.S.C. § 2255
15 Proceeding and an Application For Order Requiring Affidavits From Defense Counsel
16 And Investigators. The Defendant has not responded or objected to the Motion and
17 Application.

18 *Inter alia*, the Government seeks access to the boxes of files delivered by the
19 Defendant's trial counsel to present counsel for the Defendant. There being no
20 objection thereto and the court having previously ruled that because of the ineffective
21 assistance of counsel claim herein, the attorney-client privilege existing between the
22 Defendant and trial counsel has been waived, the motion for access to the files and boxes
23 of trial defense counsel is GRANTED.

24 In its "Application" the Government seeks an unspecified "Affidavit" from the
25 Defendant's trial counsel and investigators. That request lacks specificity as to what
26 such an Affidavit might contain. By reason thereof, the Application is DENIED IN
27 PART and GRANTED in part to the extent that in lieu of an Affidavit, counsel for the
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1 Government shall be entitled to interview and/or depose trial counsel for the Defendant
2 as to the claims presented by the Defendant in this § 2255 proceeding.

3 The Clerk of this court shall enter this Order and forward copies to counsel.

4 **DATED** this 15th day of December 2005.

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6 s/ Justin L. Quackenbush
7 JUSTIN L. QUACKENBUSH
8 SENIOR UNITED STATES DISTRICT JUDGE

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